

Emergency Regulation on Wetlands

Today, the South Carolina Department of Health and Environmental Control (“DHEC”) has filed an Emergency Regulation on Wetlands seeking to extend state jurisdiction over isolated wetlands as those areas were previously defined in the U.S. Army Corps of Engineers 1987 interim-final draft “Wetlands Identification and Delineation Manual.”

DHEC has declared an emergency in order to prevent the loss of wetlands which may result from the recent U.S. Supreme Court’s decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (Slip Opinion No. 99-1178), which held that federal jurisdiction over wetlands did not extend to isolated wetlands.

The Emergency Regulation declares that DHEC is a natural resources related agency and finds that “abnormal and unusual conditions, immediate need and the state’s best interest” require immediate action to protect and manage natural resources.

S.C. CODE ANN. 1-23-130(C) provides that an emergency regulation which is either filed or expires while the General Assembly is in session will remain in effect for ninety (90) days and may not be refiled.

The Department has obtained a copy of the Emergency Regulation on Wetlands which can be (in pdf format which requires Adobe Acrobat reader) can be found on our Web site at www.NPJP.com or by requesting a copy from one of our Environmental Practice Group attorneys at 803/771-8900.